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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/003,094 | 11/02/2001 | Joern Ostermann | 2000-0600 | 5333 |

7590 08/03/2005

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| EXAMINER |
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RIVERO, MINERVA

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| ART UNIT | PAPER NUMBER |
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2655

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,094

Applicant(s)

OSTERMANN ET AL.

Examiner

Minerva Rivero

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In the Remarks filed 1/14/05, Applicant amended the title of the invention, amended claim 24 to depend from claim 23, amended claims 18, 23 and 24, and submitted arguments for allowability of pending claims.

Response to Arguments

2. Applicant's arguments filed 1/14/05 with respect to claims 1, 3-6, 7, 9-15, 18-20 and 22-24 have been fully considered but they are not persuasive.

3. Regarding claims 1 and 7, Applicants argue that Rosenblatt *et al.* do not disclose recording an audio message from the sender.

Examiner cannot concur with the Applicants. Rosenblatt *et al.* disclose a sound recorder as part of the user's authoring module for generating the message to be voiced ([0037], Lines 11-15). Therefore claims 1 and 7, and their dependent claims, 3-6 and 9-11, respectively, stay rejected.

4. Regarding claims 12, 15 and 16, Applicants argue that Ball *et al.* do not disclose that an audio message recorded by a sender for a multi-media message corresponds to a text message inputted by the sender for the same multi-media message,

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Furthermore, Applicants argue the audio fragments disclosed by Ball *et al.* are not recorded by the user, but are the product of a text-to-speech procedure.

Examiner cannot concur with the Applicants. In addition to a text-to-speech option, Ball *et al.* disclose the recording of audio fragments by a user with an audio file recording utility, please refer to Col. 3, Lines 41-48. Moreover, the audio recorded by a user as disclosed by Ball *et al.* is associated to a text message, as they form part of the same multi-media message. Having the recorded audio message correspond or be equivalent to the text message denotes the reading of the text message by the user. Therefore claims 12, 15 and 16, and their dependent claims, 13-14 and 17, stay rejected.

5. Regarding claims 18 and 23, Applicants argue that Miyashita *et al.* fail to disclose the recorded audio message from a sender is not associated with a message.

The examiner refers Applicants to Col. 10, Lines 6-40, wherein Miyashita *et al.* describe the process of sending an electronic mail containing voice feature data obtained from voice recorded by a sender, thus the audio recorded by the sender being associated with a message. Therefore claims 18 and 23, and their dependent claims 19-20 and 24, respectively, stay rejected.

6. Applicant's arguments, see Remarks, filed 1/14/05, with respect to the rejection(s) of claim(s) 2, 8 and 21 103(a) have been fully considered and are

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persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Padmanabhan *et al.* (US Patent 6,219,638).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3-6, 7 and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenblatt *et al.* (U.S. 2002/0007276).

9. Regarding claim 1, Rosenblatt *et al.* disclose a method of delivering a multi-media message to a recipient, the multi-media message being created by a sender for delivery by an animated entity, the method comprising:

recording an audio message from the sender ([0031, Lines 4-8];

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receiving a choice of one of a plurality of animated entities to deliver the message (virtual representatives, [0008], Lines 3-8);

conforming the audio message to movements associated with the animated entity to create a multi-media message ([0015], Lines 18-22) and

delivering the multi-media message to the recipient with the animated entity speaking the recorded audio message from the sender ([0015], Lines 9-18).

10. Regarding claim 3, Rosenblatt *et al.* disclose the multi-media message is sent as an e-mail to the recipient ([0041], Lines 6-10).

11. Regarding claim 4, Rosenblatt *et al.* disclose the multi-media message is sent as an instant message to the recipient ([0041], Lines 6-10).

12. Regarding claim 5, Rosenblatt *et al.* disclose the multi-media message is sent over the Internet to the recipient ([0029], Lines 1-5)..

13. Regarding claim 6, Rosenblatt *et al.* suggest the multi-media message is sent to the recipient via a wireless network (some other network, [0029], Lines 1-5).

14. Regarding claim 7, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient using an animated entity, the sender choosing the animated entity from a plurality of animated entities, the method comprising:

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recording a sender audio message ([0031, Lines 4-8);
associating the sender audio message with the animated entity to create the multi-media message ([0015], Lines 18-22) and
processing the multi-media message for the recipient such that the animated entity speaks the sender audio message ([0015], Lines 9-18).

15. Regarding claim 9, Rosenblatt *et al.* disclose the multi-media message is sent over the Internet to the recipient ([0029], Lines 1-5).

16. Regarding claim 10, Rosenblatt *et al.* disclose the multi-media message is sent as an instant message to the recipient ([0041], Lines 6-10).

17. Regarding claim 11, Rosenblatt *et al.* suggest the multi-media message is sent to the recipient via a wireless network (some other network, [0029], Lines 1-5).

18. Claims 18-20 and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyashita *et al.* (U.S. Patent 6,289,085).

19. Regarding claim 18, Miyashita *et al.* disclose a method of providing a synthesized voice with sender voice characteristics, the method comprising:
receiving an audio recording from the sender (Col. 10, Lines 49-52);

parameterizing the audio recording into audio parameters (Col. 10, Lines 63-66);
using the audio parameters, synthesizing a voice that is not the sender's voice
but includes at least one sender voice characteristic (Col. 3, Lines 26-34 and 49-58).

20. Regarding claim 19, Miyashita *et al.* further disclose the at least one sender voice characteristic is one of an accent, voice inflection, pitch, or dialect (Col. 1, Lines 43-48; Col. 7, Line 57).

21. Regarding claim 20, Miyashita *et al.* further disclose before receiving the audio, receiving a text version of a message associated with the audio recording (Col. 1, Lines 60-65).

22. Regarding claim 22, Miyashita *et al.* further disclose parameterizing the audio recording into audio parameters further comprises using an alignment program for segmenting the audio into phonemes and labeling the audio recording with the phonemes, duration, pitch, stress and other parameters (Col. 3, Lines 49-57; speed adjustment, Col. 7, Line 58; pitch, Col. 7, Line 57; accent, Col. 8, Lines 37-44).

23. Regarding claim 23, it recites a combination of the elements in claims 18 and 20, and therefore the same rejections apply.

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24. Regarding claim 24, it recites a combination of the elements in claims 18, 19 and 20, and therefore the same rejections apply.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt et al (U.S. 2002/0007276) in view of Padmanabhan et al. (U.S. Patent 6,219,638).

27. Regarding claim 2, Rosenblatt et al. do not disclose but Padmanabhan et al. do disclose

after recording the audio message from the sender, converting the audio message to a text message and presenting a text version of the audio message to the sender (Col. 4, Lines 1-4; *transcribing speech to text*, Col. 4, Lines 14-21; *transcribed text is played back to the user*, Col. 4, Lines 22-30) and

delivering the multi-media message to the recipient upon approval of the text message from the sender (Col. 4, Lines 52-54 and 62-67; Col. 6, Lines 17-22).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with after recording the audio message from the sender, converting the audio message to text and presenting a text version of the audio message to the sender, as taught by Padmanabhan *et al.*, and delivering the multi-media message to the recipient upon approval of the text message from the sender as further taught by Padmanabhan *et al.*, in order to allow a handicapped person to create and send a message, and to enable the user to verify that the automatically generated text version properly corresponds to the audio message.

28. Regarding claim 8, Rosenblatt *et al.* disclose using the text message to coordinate mouth movements for the animated entity ([0028], Lines 14-18).

However, Rosenblatt *et al.* do not disclose but Padmanabhan *et al.* do disclose using an automatic speech recognition system to convert the audio message to a text message (Col. 4, Lines 1-4; *transcribing speech to text*, Col. 4, Lines 14-21), presenting the text message to the sender (*transcribed text is played back to the user*, Col. 4, Lines 22-30) and receiving approval from the sender for the text message (Col. 4, Lines 52-54 and 62-67; Col. 6, Lines 17-22).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with receiving approval from

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the sender for the text message, using an automatic speech recognition system to convert the audio message to a text message and presenting the text message to the sender, as taught by Padmanabhan *et al.*, in order to make the message accessible to the hearing-impaired and to allow the user to verify the automatically transcribed message's accuracy.

29. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Ball *et al.* (U.S. 6,393,107).

30. Regarding claim 12, Rosenblatt *et al.* disclose a method of delivering a multi-media message being created by a sender for delivery by an animated entity, the method comprising:

receiving a text message from the sender ([0019], Lines 1-5);

receiving a choice of one of a plurality of animated entities to deliver the message (virtual representatives, [0008], Lines 3-8);

conforming the sender audio message to movements associated with the animated entity to create a multi-media message ([0015], Lines 18-22) and

delivering the multi-media message to the recipient with the animated entity speaking the recorded audio message from the sender ([0015], Lines 9-18).

However, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording a sender audio message corresponding to the text message (Col. 3, Lines 43-48).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the recording of a sender

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audio message corresponding to the text message as taught by Ball *et al.*, since this allows message accessibility to a hearing-impaired individual.

31. Regarding claim 13, Rosenblatt *et al.* further disclose delivering the multi-media message to the recipient upon approval of the sender audio message by the sender ([0037], Lines 11-20).

32. Regarding claim 14, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording the sender audio message corresponding to the text message after the sender makes a request to input an audible version of the text message (Col. 27, Lines 16-20).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with recording the audio message corresponding to the text message after the sender makes a request to input an audible version of the text message as taught by Ball *et al.* so as to allow the user to customize the multi-media message according to the user's preference.

33. Regarding claim 15, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient using an animated entity, the sender choosing the animated entity from a plurality of animated entities, the method comprising:

receiving a text message from the sender ([0019], Lines 1-5);

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associating the sender audio message with the animated entity to create the multi-media message ([0015], Lines 18-22) and

processing the multi-media message for the recipient such that the animated entity speaks the sender audio message ([0015], Lines 9-18).

However, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording a sender audio message corresponding to the text message (Col. 3, Lines 43-48).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the recording of a sender audio message corresponding to the text message as taught by Ball *et al.*, to make the message accessible to a sight-impaired individual.

34. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Ball *et al.* (U.S. 6,393,107) and further in view of Miyashita *et al.* (6,289,085).

35. Regarding claim 16, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient using an animated entity, the sender choosing the animated entity from a plurality of animated entities, the method comprising:

receiving a text message from the sender ([0019], Lines 1-5) and

conforming the audio message to movements associated with the animated entity to create a multi-media message ([0015], Lines 18-22).

However, Rosenblatt *et al.* do not disclose but Ball *et al.* do disclose recording a sender audio message corresponding to the text message (Col. 3, Lines 43-48).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the recording of a sender audio message corresponding to the text message as taught by Ball *et al.*, to make the message accessible to a sight-impaired individual.

Moreover, neither Rosenblatt *et al.* nor Ball *et al.* disclose but Miyashita *et al.* do disclose delivering the multi-media message to the recipient, wherein the animated entity uses a synthesized voice having characteristics associated with the recorded sender audio message (Col. 13, Lines 10-14).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* and Ball *et al.* with delivering the multi-media message to the recipient, wherein the animated entity uses a synthesized voice having characteristics associated with the recorded sender audio message in order to provide the recipient with a more personal experience.

36. Regarding claim 17, Rosenblatt *et al.* and Ball *et al.* do not disclose but Miyashita *et al.* do disclose the synthesized voice includes an accent of the sender voice (Col. 8, Lines 46-52).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* and Ball *et al.* by having the synthesized voice include an accent of the sender voice as further taught by Miyashita

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et al. so as to provide the recipient of the multi-media message with a more personal experience.

37. Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Miyashita *et al.* (U.S. Patent 6,289,085) in view of Padmanabhan *et al.* (U.S. Patent 6,219,638).

38. Regarding claim 21, Miyashita *et al.* do not disclose but of Padmanabhan *et al.* do disclose after receiving the audio recording, using an automatic speech recognizer and presenting a text version of the audio recording to the sender for approval before parameterizing the audio recording (Col. 4, Lines 1-4; *transcribing speech to text*, Col. 4, Lines 14-21; *transcribed text is played back to the user*, Col. 4, Lines 22-30; Col. 4, Lines 52-54 and 62-67; Col. 6, Lines 17-22).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Miyashita *et al.* with after receiving the audio recording, using an automatic speech recognizer and presenting a text version of the audio recording to the sender for approval before parameterizing the audio recording, as taught by of Padmanabhan *et al.*, in order to ensure the user is satisfied with such text version of the message.

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Conclusion

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minerva Rivero whose telephone number is (571) 272-7626. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis Ivars Smits can be reached on (571) 272-7628. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR 7/28/05


SUSAN MCFADDEN
PRIMARY EXAMINER